THE HON'BLE SRI JUSTICE P.S.NARAYANA

Writ Petition No.13014 of 2007

Date: 7th September, 2007

Between :-

Shaik Omar .. Petitioner

And

The Regional Passport Officer,
Secunderabad ..
Respondent

THE HON'BLE SRI JUSTICE P.S.NARAYANA

Writ Petition No.13014 of 2007

ORDER:-

This Court ordered *notice before admission* on 21-06-2007 and issued *rule nisi* on 6-9-2007.

2. The Writ Petition is filed for a Writ of Mandamus to direct the respondent to act upon the application of the petitioner dated 6-6-2007 and rectify the inadvertence mistake in the date of birth column showing as 11-3-1961 by including the actual date of birth as 5-12-1965 in tune with Secondary School Certificate and pass such other suitable orders

4. It is stated by the petitioner that he was born on 5-12-1965 and his parents are Shaik Mohammed and Khaja Bee. He also stated that he completed his SSC from Zilla Parishad Government High School, Kohiri, Medak District and was successful in the examination conducted in March 1979 and the Board of Secondary Examination, A.P., issued a certificate of pass showing his actual date of birth i.e., 5-12-1965. It is further stated that the entry of date of birth certificate was based on his actual date of birth, which was entered and maintained in the school record. It is also further stated that he completed his Intermediate in the year 1981 from Government Junior College, Sangareddy, Medak District and he also joined

B.Com., in Tara Government Degree College, Sangareddy District but discontinued his studies in the final hear. It is also further stated that he applied for passport in or about 1983 and it is being renewed from time to time and the passport at present holding expires on 28-12-2013. It is also further stated that at the time of applying for passport, he approached an Agent, as he was not aware of the complicated procedure to get passport. He also stated that he handed over all his certificates to the agent, but he did not enclose his Secondary School Certificate and procured his passport with wrong date of birth rendered as 11-3-1961 which is incorrect as the actual date of birth is 5-12-1965 as recorded in the Secondary School Certificate. It is further stated that the above wrong entry was known to him only when he prepared his entire arrangements for his journey to Saudi Arabia and due to lack of time, he could not approach the authorities-respondent. It is also further stated that the above mistake occurred inadvertently and though he noticed the same and subsequently the same could not be changed as it requires a procedure to be followed to get the same corrected and he could not make an application at that time. He also stated that each time the passport was being renewed and the same entry being continued though he requested by producing his

Secondary School Certificate to correct his date of birth. He also further stated that he left for Saudi Arabia in the year 1985 and worked in Hussain Al-Ali Eastern Province of Saudi Arabia (Dammam) with valid permission and came back to the Mother Land on 27-3-1997. It is also further stated that to set right the date of birth in tune with the Secondary School Certificate he approached the respondent but they refused and advised him to get fresh passport and later he made an application to the respondent on 6-6-2007 by paying relevant fees but the respondent had taken no action, the petitioner being forced to approach this Court for appropriate reliefs.

5. The Board of Secondary Examination, A.P., issued a certificate to the petitioner showing the actual date of birth and a copy of the same also had been produced. The circular dt.18-4-2001 reads as hereunder:-

Ministry of External Affairs
(PV-I Section)
Circular

___/401/2/5/2001 *18th April, 2001*

As per the current practice, in case of change of date of birth/place of birth, the applicant is required to produce the original declaratory order from a First Class Judicial Magistrate. However in view of the recent

Judgment given by the High Court of Judicature at Mumbai in CWP No.1072 of 2000 filed by Shri Jigar Harish Shah, the following clarifications are issued:

(a) Where an applicant is seeking rectification/correction of a mistake in the entry on date of birth/place of birth in the passport, PIA may after verifying/satisfying himself, affect the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.

(b) Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment. PIA may affect the necessary amendment in the passport without insisting on a Court Order. As per the provisions of Section 21 of the general clauses Act 1997, a competent authority issuing a Certificate could also make necessary amendments to the same.

(c) Where the initial entry has been made on the basis of a supportive document issued by one competent authority i.e., School/educational authority and the applicant subsequently requests for a change on the basis of a certificate issued by another competent authority i.e., municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent Court of jurisdiction, certifying the valid date of birth/place of birth.

Sd//

(Manju)
Under Secretary (PV-I)

All Passport Issuing Authorities

Copy for information to L&T Division, MEA

The learned Counsel placed strong reliance on the decision in ***ALI IMRAN v. REGIONAL PASSPORT OFFICER, SECUNDERABAD***[1] wherein the learned Judge of this Court at paras 3 and 4 observed as hereunder:-

> *"Be it noted that under provisions of the Passports Act, 1967, no power is vested in the Regional Passport Officer to correct entries in the passport. However, pursuant to the Judgment of the High Court of Bombay referred to hereinafter, it is now permissible for the Regional Passport Officer to accept applications for rectification/correction. Nonetheless, as per clause (c) above, if an entry had been made on the basis of a supportive document issued by one authority i.e., school or educational authority and subsequently the applicant requests for a change of the entry on the basis of the certificate issued by another authority the passport issuing authority is required to direct the applicant to obtain a proper declaration from the Civil Court.*
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> *Having regard to the clarification issued by the Government of India, I directed the learned Standing Counsel for Central Government, Sri K.G.Krishna Murthy to produce a copy of the application made by the petitioner for passport in*

the year 1999. The application is produced before me today. A perusal of the application along with its enclosures reveal that the petitioner enclosed Secondary School Certificate bearing C019604 dated 10-6-1987 which shows his date of birth as 28-7-1992. Therefore, it cannot be said that an error has crept in the passport issued to the petitioner. As the petitioner is now placing reliance on the on the birth certificate issued by the Registrar of Births and Deaths, Municipal Corporation of Hyderabad, which shows his date of birth as 28-7-1975, his case does not fall within the guidelines/instructions issued by the Government of India. If the petitioner is so advised, he may have to approach the Civil Court or the authorities under the Education Act seeking necessary correction of date of birth in the Secondary School Certificate and then approach the passport issuing authority. The petitioner's application was rightly not accepted by the respondent."

In ***Mohd.Narsullah Khan v. Regional Passport Officer, Hyderabad***[2] the learned Judge observed at paras 4, 5, 6 and 7 as hereunder:-

*"In **Ali Imran v. Regional Passport Officer, Secunderabad (2003 (4) ALT 474 = 2003 (3) ALD 625,** I have considered the Circular dated 18-4-2001 issued by the Government of India in the Ministry of External Affairs pursuant to the Judgment of the High Court of Judicature at Bombay in Civil Writ Petition No.1072 of 2000.*

The instructions/clarifications issued in the said Circular read as under:

(a) Where an applicant is seeking rectification/correction of a mistake in the entry on date of birth/place of birth in the passport, PIA may after verifying/satisfying himself, affect the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.

(b) Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment. PIA may affect the necessary amendment in the passport without insisting on a Court Order. As per the provisions of Section 21 of the general clauses Act 1997, a competent authority issuing a Certificate could also make necessary amendments to the same.

(c) Where the initial entry has been made on the basis of a supportive document issued by one competent authority i.e., School/educational authority and the applicant subsequently requests for a change on the basis of a certificate issued by another competent authority i.e., municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent Court of jurisdiction, certifying the valid date of birth/place of birth.

In view of the above clarifications, I disposed of the said case observing as under:

Be it noted that under the provisions of the

Passports Act, 1967, no power is vested in the Regional Passport Officer to correct entries in the passport. However, pursuant to the Judgment of the High Court of Bombay referred to hereinabove, it is now permissible for the Regional Passport Officer to accept applications for rectification/correction. Nonetheless, as per clause (c) above, if an entry had been made on the basis of a supportive document issued by one authority i.e., school or educational authority and subsequently the applicant requests for a change of the entry on the basis of the certificate issued by another authority the passport issuing authority is required to direct the applicant to obtain a proper declaration from the civil Court.

In this case, the petitioner has produced Secondary School Certificate to prove that his correct date of birth is 1-4-1976. Therefore, the claim of the petitioner is well supported and squarely falls in Clause (a) of the Circular dt.18-4-2001.

Following the Judgment of this Court in ***Ali Imran (referred above)*** *this Writ Petition is also disposed of directing the respondent to consider the application of the petitioner along with the Secondary School Certificate No.PC/01/0190544/2 PRIVATE, issued by the Secretary, Board of Secondary Education, Andhra Pradesh, Hyderabad, and to pass appropriate orders in the light of the observations made in the above Judgment. There shall be no order as to costs."*

6. In the light of the Circular referred to supra and also the decisions specified above, this Court is of the considered opinion that the Writ Petition be disposed of directing the respondent to consider the application of the petitioner dated 6-6-2007 and rectify the mistake in the date of birth column within a period of four weeks from the date of receipt of this order. Accordingly, the Writ Petition is disposed of. No order as to costs.

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Justice P.S.Narayana

7th September, 2007
smr

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[1] 2003 (3) ALD 625

[2] 2005(1) ALT 95